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U.S. – Singapore Free Trade Agreement
Text of the Agreement

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CHAPTER 8 : CROSS BORDER TRADE IN SERVICES

ARTICLE 8.1 : DEFINITIONS

1. For purposes of this Chapter:

Cross-border trade in services or cross-border supply of services means the supply of a service:

- (a) from the territory of one Party into the territory of the other Party;
- (b) in the territory of one Party by a person of that Party to a person of the other Party; or
- (c) by a national of a Party in the territory of the other Party;

but does not include the supply of a service in the territory of a Party by an investor or investment of the other Party as defined in Article 15.1 of Chapter 15 (Investment) of this Agreement.

Specialty air services means any non-transportation air services, such as aerial fire-fighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services.

Enterprise means an entity constituted or organized under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled. Forms that an enterprise may take include a corporation, trust, partnership, sole proprietorship, branch, joint venture, association, or similar organization.

Enterprise of a Party means an enterprise organized or constituted under the laws of that Party.

Service supplier means a person of that Party that seeks to supply or supplies a service.⁸⁻¹

Professional services means services, the provision of which requires specialized post-secondary education, or equivalent training or experience, and for which the right to practice is granted or restricted by a Party, but does not include services provided by trades-persons or vessel and aircraft crew members.

⁸⁻¹ The Parties understand that **service supplier** has the same meaning as **service supplier** in Article XXVIII(g) of GATS.

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ARTICLE 8.2: SCOPE AND COVERAGE

1. This Chapter applies to:
 - (a) measures by a Party affecting cross-border trade in services by service suppliers of the other Party; and
 - (b) Articles 8.3, 8.6 and 8.12, shall also apply to measures by a Party affecting the supply of a service in the territory of a Party by an investor or investment of the other Party as defined in Article 15.1 of Chapter 15 (Investment) of this Agreement.⁸⁻²

Such measures include measures affecting:

- (i) the production, distribution, marketing, sale and delivery of a service;
 - (ii) the purchase or use of, or payment for, a service;
 - (iii) the access to and use of distribution, transport, or telecommunications networks and services in connection with the supply of a service; and
 - (iv) the provision of a bond or other form of financial security as a condition for the supply of a service.
2. For purposes of this Chapter, **measures by a Party** means measures taken by:
 - (a) central, regional or local governments and authorities; and
 - (b) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities.
3. This Chapter does not apply to financial services as defined in Article 10.20 of Chapter 10 (Financial Services) of this Agreement.
4. This Chapter does not apply to government procurement as defined in Article 1.3 of Chapter 1 (Establishment of a Free Trade Area and Definitions) of this Agreement.
5. This Chapter does not apply to air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services, other than:
 - (a) aircraft repair and maintenance services during which an aircraft is withdrawn from service; and
 - (b) specialty air services

⁸⁻² This paragraph shall not be subject to Investor-State dispute settlement pursuant to Article 15.XX of Chapter 15 (Investment).

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6. This Chapter does not apply to subsidies or grants provided by a Party or a state enterprise, including government-supported loans, guarantees and insurance.

7. This Chapter does not impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, and does not confer any right on that national with respect to that access or employment.

8. This Chapter does not apply to services supplied in the exercise of governmental authority within the territory of each respective Party.

A service supplied in the exercise of governmental authority means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers.

ARTICLE 8.3 : DOMESTIC REGULATION

1. Where authorization is required for the supply of a service, the competent authorities of a Party shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the party shall provide, without undue delay, information concerning the status of the application including any reasons for a denial. This obligation shall not apply to authorization requirements that are within the scope of Article 8.8.2.

2. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, each Party shall endeavor to ensure, as appropriate for individual sectors, that such measures are:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the services; and
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

3. If the results of the negotiations related to ~~{GATS Article VI:4 of GATS}~~ (or the results of any similar negotiations undertaken in other multilateral fora in which both Parties participate) enter into effect, this Article shall be amended, as appropriate, after consultations between the Parties, to bring those results into effect under this Agreement. The Parties further agree to co-ordinate on such negotiations, as appropriate.

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ARTICLE 8.4 : NATIONAL TREATMENT

1. Each Party shall accord to service suppliers of the other Party treatment no less favorable than it accords, in like circumstances, to its own service suppliers⁸⁻³.
2. The treatment to be accorded by a Party under paragraph 1 means, with respect to a regional level, treatment no less favorable than the most favorable treatment accorded, in like circumstances, by that regional level to service suppliers of the Party of which it forms a part.

ARTICLE 8.5 : MOST-FAVORED-NATION TREATMENT

Each Party shall accord to service suppliers of the other Party treatment no less favorable than that it accords, in like circumstances, to service suppliers of a non-Party⁸⁻⁴.

ARTICLE 8.6 : MARKET ACCESS

1. Neither Party shall maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, the following measures:
 - (a) limitations on the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
 - (b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
 - (c) limitations on the total number of service operations or on the total quantity of services output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test;⁸⁻⁵
 - (d) limitations on the total number of natural persons that may be employed in a particular service sector or that a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service in the form of a numerical quotas or the requirement of an economic needs test; and

⁸⁻³ The Parties understand that **service suppliers** has the same meaning as **services and service suppliers** in Article XVII:1 of GATS.

⁸⁻⁴ The Parties understand that **service suppliers** has the same meaning as **services and service suppliers** in Article II:1 of GATS.

⁸⁻⁵ This paragraph does not cover measures of a Party which limit inputs for the supply of services.

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- (e) measures which restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service.

ARTICLE 8.7 : LOCAL PRESENCE

Neither Party shall require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the cross-border supply of a service.

ARTICLE 8.8 : NON-CONFORMING MEASURES

1. Articles 8.4, 8.5, 8.6 and 8.7 do not apply to:
 - (a) any existing non-conforming measure that is maintained by a Party at:
 - (i) the central level⁸⁻⁶, and is set out by that Party in its Schedule to Annex 8-I;
 - (ii) a regional level⁸⁻⁷, and is set out by that Party in its Schedule to Annex 8-I;
 - (iii) a local government level⁸⁻⁸;
 - (b) the continuation or prompt renewal of any non-conforming measure referred to in subparagraph (a); or
 - (c) an amendment to any non-conforming measure referred to in subparagraph (a) to the extent that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with Articles 8.4, 8.5, 8.6 and 8.7.
2. Articles 8.4, 8.5, 8.6 and 8.7 do not apply to any measure that a Party adopts or maintains with respect to sectors, sub-sectors or activities as set out in its Schedule to Annex 8-II.

ARTICLE 8.9 : RECOGNITION

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for

⁸⁻⁶ For the US, **central level** means the federal level. For Singapore, **central level** means the national level.

⁸⁻⁷ For the US, **regional level** means the 50 states, the District of Columbia and Puerto Rico. Singapore has no government at the **regional level**.

⁸⁻⁸ For Singapore, **local government level** means entities with sub-national legislative or executive powers under domestic law, including Town Councils and Community Development Councils.

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the authorisation, licensing or certification of services suppliers, and subject to the requirements of paragraph 4, a Party may recognize the education or experience obtained, requirements met, or licenses or certifications granted in a particular country, including the other Party and non-Parties. Such recognition, which may be achieved through harmonization or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. Where a Party recognizes, autonomously or by agreement or arrangement, the education or experience obtained, requirements met or licenses or certifications granted in the territory of a non-Party, nothing in Article 8.5 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met or licenses or certifications granted in the territory of the other Party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 1, whether existing or future, shall afford adequate opportunity for the other Party, if the other Party is interested, to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for the other Party to demonstrate that education, experience, licenses, or certifications obtained or requirements met in that other Party's territory should be recognised.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorization, licensing or certification of services suppliers, or a disguised restriction on trade in services.

5. Annex 8A (Professional Services) applies to measures by a Party relating to the licensing or certification of professional service suppliers as set out in the provisions of that Annex.

ARTICLE 8.10 : TRANSFERS AND PAYMENTS

1. Each Party shall permit all transfers and payments relating to the cross-border supply of services to be made freely and without delay into and out of its territory. Such transfers and payments include: ⁸⁻⁹

- (a) salary payments;
- (b) funds taken abroad to consume a service;
- (c) profits;

⁸⁻⁹The Parties understand that this Article does not extend to Singapore's requirements in relation to the Central Provident Fund regarding the withdrawal of monies from individual accounts.

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- (d) interest, royalty payments, management fees, licensing fees, and technical assistance and other fees;
 - (e) payments made under a contract, including a loan agreement; and
 - (f) inflows of funds necessary to perform a service.
2. Each Party shall permit such transfers and payments relating to the cross-border supply of services to be made in a freely usable currency at the market rate of exchange prevailing on the date of transfer.
3. Notwithstanding paragraphs 1 and 2, a Party may prevent a transfer or payment through the equitable, non-discriminatory and good faith application of its law relating to:
- (a) bankruptcy, insolvency or the protection of the rights of creditors;
 - (b) issuing, trading or dealing in securities, futures, options, or derivatives;
 - (c) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities
 - (d) criminal or penal offenses;
 - (e) ensuring compliance with orders or judgements in judicial or administrative proceedings.

ARTICLE 8.11 : DENIAL OF BENEFITS

1. A Party may deny the benefits of this Chapter to service suppliers of the other Party where:
- (a) the service is being supplied by an enterprise that is owned or controlled by persons of a non-Party and that has no substantial business activities in the territory of the other Party; or
 - (b) the service is being supplied by an enterprise owned or controlled by nationals of a non-Party, and:
 - (i) the denying Party does not maintain diplomatic relations with the non-Party, or
 - (ii) the denying Party adopts or maintains measures with respect to the non-Party that prohibit transactions with the enterprise or that would be violated or circumvented if the benefits of this Chapter were accorded to the enterprise.

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ARTICLE 8.12 : TRANSPARENCY IN DEVELOPMENT AND APPLICATION OF REGULATIONS

In addition to the obligations in Chapter 19 (Transparency)

1. A Party shall maintain or establish appropriate mechanisms that will respond to enquiries from interested persons regarding regulations and their requirements.
2. If a Party does not provide advance notice and comment pursuant to Article 19.3 of Chapter 19 (Transparency) of this Agreement, it shall, to the extent possible, provide by publicly available means the reasons therefore.
3. At the time it adopts final regulations, a Party shall, to the extent possible, including upon request, address by publicly available means substantive comments received from interested persons with respect to the proposed regulations.
4. To the extent possible, each Party shall allow reasonable time between publication of final regulations and their effective date.

It is understood that “Regulation” includes regulations establishing or applying to licensing authorization or criteria.

ARTICLE 8.13 : IMPLEMENTATION

The Parties will meet annually, or as otherwise agreed, on issues related to implementation of the Chapter’s obligations and the consideration of any issues of mutual interest.

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ANNEX 8A

PROFESSIONAL SERVICES

DEVELOPMENT OF PROFESSIONAL STANDARDS

1. The Parties shall encourage the relevant bodies in their respective territories to develop mutually acceptable standards and criteria for licensing and certification of professional service providers and to provide recommendations on mutual recognition to the Joint Committee.

2. The standards and criteria referred to in paragraph 1 may be developed with regard to the following matters:

- (a) education - accreditation of schools or academic programs;
- (b) examinations - qualifying examinations for licensing, including alternative methods of assessment such as oral examinations and interviews;
- (c) experience - length and nature of experience required for licensing;
- (d) conduct and ethics - standards of professional conduct and the nature of disciplinary action for non-conformity with those standards;
- (e) professional development and re-certification - continuing education and ongoing requirements to maintain professional certification;
- (f) scope of practice - extent of, or limitations on, permissible activities;
- (g) local knowledge - requirements for knowledge of such matters as local laws, regulations, language, geography or climate; and
- (h) consumer protection - alternatives to residency requirements, including bonding, professional liability insurance and client restitution funds, to provide for the protection of consumers.

3. On receipt of a recommendation referred to in paragraph 1, the Joint Committee shall review the recommendation within a reasonable time to determine whether it is consistent with this Agreement. Based on the Joint Committee's review, each Party shall encourage its respective competent authorities, where appropriate, to implement the recommendation within a mutually agreed time.

TEMPORARY LICENSING

4. Where the Parties agree, each Party shall encourage the relevant bodies in its territory to develop procedures for the temporary licensing of professional service providers of another Party.

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REVIEW

5. The Joint Committee shall, at least once every three years, review the implementation of this Section.

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ANNEX 8-I

1. The Schedule of a Party sets out, pursuant to Articles 8.8.1 of this Chapter and 15.12.1 of Chapter 15 (Investment), a Party's existing measures that are not subject to some or all of the obligations imposed by:

- (a) Article 8.4, 10.2, or 15.2.1 (National Treatment);
- (b) Article 8.5, 10.3, or 15.2.2 (Most-Favored-Nation Treatment);
- (c) Article 8.7 (Local Presence);
- (d) Article 15.7 (Performance Requirements);
- (e) Article 15.9 (Senior Management and Boards of Directors), or
- (f) Article 8.6 (Market Access).

2. Each Annex entry sets out the following elements:

- (a) **sector** refers to the sector for which the entry is made;
- (b) **obligations concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 8.8.1(a), do not apply to the listed measure(s);
- (c) **level of government** indicates the level of government maintaining the listed measure(s);
- (d) **measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **measures** element:
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;
- (e) **description**, for Singapore, sets out the non-conforming aspects of the measure for which the reservation is taken; and **description**, for the United States, provides a general, non-binding, description of the **measures**.
- (f) **phase-out** sets out commitments, if any, for liberalization after the date of entry into force of this Agreement.

3. In accordance with Article 8.8.1(a), the articles of this Agreement specified in the obligations concerned element of an entry do not apply to the law, regulation or other measure identified in the measures or descriptions element of that entry. For greater

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certainty, the fact that a Party has listed a measure in this Annex does not necessarily mean that in the absence of such listing the measure would be inconsistent with the Party's obligations under the Cross-Border Trade in Services Chapter, the Investment Chapter or the Financial Services Chapter (as the case may be).

4. Where a Party maintains a measure that requires that a service provider be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a reservation for that measure taken with respect to Articles 8.4, 8.5 or 8.7 or Articles 10.2, 10.3 or 10.5 of Chapter 10 (Financial Services) shall operate as a reservation with respect to Articles 15.2 and 15.7 of Chapter 15 (Investment), or to the extent of that measure.

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ANNEX 8-II

1. The Schedule of a Party sets out, pursuant to Articles 8.8.2 and 15.2.2 of Chapter 15 (Investment), the specific sectors, sub-sectors or activities for which that Party may maintain existing, or adopt new or more restrictive, measures that do not conform with obligations imposed by:

- (a) Article 8.4, 10.2, or 15.2.1 (National Treatment);
- (b) Article 8.5, 10.3, or 15.2.2 (Most-Favored-Nation Treatment);
- (c) Article 8.7 (Local Presence);
- (d) Article 15.7 (Performance Requirements);
- (e) Article 15.9 (Senior Management and Boards of Directors); or
- (f) Article 8.6 (Market Access).

2. Each entry sets out the following elements:

- (a) **sector** refers to the sector for which the entry is made;
- (b) **obligations concerned** specifies the obligation(s) referred to in paragraph 1 that, pursuant to Article 8.8.2 and Article 15.14.2, do not apply to the sectors, sub-sectors or activities listed in the entry;
- (c) **description** sets out the scope of the sector, sub-sector or activities covered by the entry; and
- (d) **existing measures** identifies, for transparency purposes, existing measures that apply to the sector, sub-sector or activities covered by the entry.

3. In accordance with Article 8.8.2 and 15.14.2, the articles of this Agreement specified in the obligations concerned element of an entry do not apply to the sectors, sub-sectors and activities identified in the description element of that entry. For greater certainty, the fact that a Party has listed a measure in the existing measures element of an entry in this Annex does not necessarily mean that in the absence of such an Annex entry the measure would be inconsistent with the Party's obligations under this Chapter, Chapter 15 (Investment) or Chapter 10 (Financial Services) (as the case may be).